

From: Othniel Graichen
To: Microsoft ATR
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Subject: Microsoft Settlement

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In the western system of capitalism, consumers do not usually buy directly from producers. In our economy, multiple levels of middlemen exist to satisfy the demand for finished goods. This results in healthy competition, reasonable profits and an increased tax base. The established Microsoft monopoly on technology (like AT&T's monopoly on communications before it) has not been used toward the public's good and the company's business practices illegally extend this monopoly by tying inferior products to its established ones slowing the rate of technology advancement. This substantially reduces the opportunities for competing technology producers and has resulted in decreased tax revenues which can be collected from the offending multinational corporation. Furthermore by refusing to support the Linux platform, Microsoft management reduces its value to shareholders. My explanation follows:

Microsoft does not just have a monopoly on PC operating systems. In the minds of middle management in the Western world, a new technology is not ready for deployment until a Microsoft product includes it. The successful managers have witnessed where business needs existed for a given technology, early adopters (using non-Microsoft tools) were burned by incompatibilities with key Microsoft software components or unavailability of updates to products such as Excel, Word, DOS, Windows, Internet Explorer and Media Player to name a few.

After slaying Goliath, Microsoft now holds hostage an even larger customer base than IBM did before it changed its business practices to remedy an earlier DOJ suit. Microsoft has not cooperated with the will of the people as pursued by the USDOJ and attorneys general of the 19 states. Unlike IBM, Microsoft cannot see the error of its ways. Its no longer just about profits ? instead it's about the power to be above the law. The "software tax" that it collects on all PCs sold planet-wide by leveraging US political and military influence makes Microsoft (and by extension the US) a target of foreign nationalistic pride/prejudice. Wars in the coming centuries will be fought over control of Information. Microsoft's way has not produced the technologically superior or secure operating system platform needed by the marketplace because they have not had to innovate as they hold a monopoly and successfully prevent competition into that space. The computer scientists that have built Linux allow for commercial proprietary software to run on this more reliable platform. They only want the operating system not the applications which run on it to be free/open and beyond subversion. They have produced a system which is more secure and reliable than Microsoft's operating systems. Businesses that have seen how often the Microsoft sands shift have chosen not build on the Microsoft choices of foundation.

The free operating system Linux was given as an example to the court as a serious threat to Microsoft's monopoly, but that argument should be discounted as that Operating System is totally free ? meaning no license cost per machine. So it does not compete with Microsoft. There is no company called Linux. No one company controls the direction Linux will take. The reason Linux' open source API can compete with Microsoft's Monopoly OS is because the companies that use it are guaranteed of a truly level operating system playing field. Linux is to operating system technology what free markets are to economic systems. Requiring Microsoft to support the Linux platform as a tier 1 operating system for all their application software is not taking money out of Microsoft's hand and putting it in the hand of some other company. If Microsoft's management doesn't respond to the viability of Linux, Microsoft's shareholders will be hurt on the order of what happened to Enron. That is not in the interest of middle America. What is in America's best interests is not a powerful Microsoft, but a software platform where no company has control over hardware or processor, but one where all businesses (and governments) can compete based on innovation, quality and their ability to meet customer requirements. Microsoft needs to become a technology producer instead of controlling technology deployment. Microsoft unfairly changes the operating system platform whenever a competitor has found a niche which Microsoft wants to occupy. Only when Microsoft agrees to support the Linux Operating system with their application software will competition in the business and office technology sector flourish to the benefit of all.

Microsoft is a grand marketing organization but they do not stimulate our economy to build (and profit from building) new technological advances. Business plans

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that would go head-to-head with Microsoft are rejected. Instead of hiring and training more computer scientists, software developers and programmers, our country has changed immigration laws to allow 500 thousand more H1-B Visas thereby increasing the unemployment of working class Americans.

Furthermore, Microsoft is not pushing the envelope of technology. It recoups its investment on technology many fold more than necessary before developing new products. This is not good for consumers and has transformed Microsoft into more of a marketing company than a purveyor of technology.

It specifically breaks the law regarding the tying of a new product to a monopoly product by combining bug fixes (a warranty service) into product upgrades (for a fee) and by not making them available separately but combining fixes with new code (and a new set of bugs). While the argument has been made regarding Microsoft's Internet Explorer browser being part of the Microsoft Operating System instead of application software, two facts belie that claim. One, Internet Explorer is available for the Macintosh, Solaris and HP-Unix -- platforms that are obviously not Microsoft operating systems. So tying Internet Explorer to the correct operation of the Windows Operating System was a deliberate attempt to sabotage competition in the browser space resulting in the demise and purchase of Netscape instead of more competition. Second, Microsoft's claim that Internet Explorer is free -- just like Netscape Communicator is bogus. IE is only free to Microsoft customers. Internet Explorer is specifically not available on Linux (proving that it is not free) and because the API (operating system interface) which it uses is purposely obfuscated. Netscape Navigator and Communicator are free and are available on Linux along with the next generation Mozilla open source browser.

Artificially high operating system prices combined with fewer OS technological advances cause fewer computers to be sold by market forces due to customers learning to be disappointed in what their computers can do. More competition would increase the value of the computing infrastructure and motivate companies to invest in more computers. This was the expectation 20 years ago. All that money went to Microsoft. What do we have to show for all that investment? Some improvement but a lot of broken promises. Open Source Software delivers on that promise and the Linux operating system is the standards based vendor neutral mechanism to remedy the difficult situation the court finds itself needing to resolve.

I look to the court to render a decision which will increase employment of software developers in this country, increase the diversity of IT sector businesses, and punish the company which brazenly ignored anti-trust law, threat, and actual suit. Do not forget how the courts were unmistakably lied to. Now that Microsoft has been found guilty of being a monopolist, do not take the teeth out of enforcement by accepting the weak Proposed Final Judgement. Microsoft has injured the Information Technology sector and with remedies you can drive a truck through and will continue to do so for the next 5 to 7 years. The DOJ position has changed since the beginning of this trial with Joel Klein. Despite all the pressure to join the US DOJ, many of the state attorneys general could not in good conscience join the Revised Proposed Final Judgement. Do your job to ensure that America begins the 21st century by accelerating the deployment of technology rather than allowing business as usual at Microsoft to continue.

Nor is breaking up Microsoft the only solution! That is a simpleton's way to elicit the desired behavior, which won't work because there will be uncontrollable collusion between the two subentities. Releasing the source code for Internet Explorer would be in line with Microsoft's claim that Internet Explorer is free. Its interconnection with Outlook (the Email client) is responsible for most of the virus vulnerabilities. The inevitable improvements in security once the source code is released would benefit the public. Getting Microsoft to drop the suit against Lindows.com ? a potential operating system competitor ? would also be proof that they will permit competition. The most important goal is to convince Microsoft that selling its Office Suite on Linux is good for Microsoft. The RPFJ does not accomplish that. That is one reason why all the state's attorneys general did not support it.

Microsoft writes good application software, but they have made operating systems

which are not secure from viruses. Actually Java was designed from the start to be a more secure middleware platform, yet Microsoft quickly pushed its own alternative technology which has since been successfully targeted by virus writers. Why? Not to support the public good, but to retain control of their market.

There is no money in selling operating systems, yet the foundation of all applications is operating system support. Since the beginning, OSes have always been given away with the computer. The Microsoft licensing agreement must be changed to not require that Microsoft application software be used only with or on a Microsoft Operating System license. What Microsoft has done is that they have sold all the computer manufacturers on the idea of paying them to preload computers with their operating system. Thus the price of the operating system is inseparable from the hardware. Microsoft gets their "tax" whether you use their software or not. This lack of consumer choice in operating system middleware must end. As long as Microsoft products are only licensed for Microsoft operating systems, consumers will be tied to that platform and technology sector businesses will be unable to innovate and compete with Microsoft.

Lastly, market (business) and government (military) forces are finally responding to the fact that only open source software systems are secure. Your judgement should promote this trend without being legislative. Microsoft should be prevented by decree from developing a version of their operating systems which are incompatible with VMware or preventing their application software from running under WINE in Linux. Such measures are simply exclusionary. Only at this point in history will you be able to extract such willingness to compete from an avowed monopolist. They need to be taught that limits exist on acceptable business practices.

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